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No. 559

In the Supreme Court of the United States

OCTOBER TERM, 1935

ARTHUR GOOCH

v.

THE UNITED STATES OF AMERICA

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE UNITED STATES

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OPINIONS BELOW

No opinion was rendered by the District Court and none has been rendered by the Circuit Court of Appeals.

JURISDICTION

The certificate of the Circuit Court of Appeals was filed in this Court on October 29, 1935. The jurisdiction of this Court is conferred by Section 239 of the Judicial Code as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

The questions certified are the following:

1. Is holding an officer to avoid arrest within the meaning of the phrase, "held for ransom or reward

or otherwise", in the act of June 22, 1932, as amended May 18, 1934 (48 St. 781), 18 U. S. C. A. 408a?

2. Is it an offense under Section 408a, *supra*, to kidnap and transport a person in interstate commerce for the purpose of preventing the arrest of the kidnaper?

STATUTE INVOLVED

The Act of June 22, 1932, c. 271, Sec. 1, as amended May 18, 1934, c. 301, 48 Stat. 781 (18 U. S. C., Sec. 408a), the so-called Federal Kidnaping Act, so far as here involved reads as follows:

> Whoever shall knowingly transport or cause to be transported, or aid or abet in transporting, in interstate or foreign commerce, any person who shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away by any means whatsoever and held for ransom or reward *or otherwise, except, in the case of a minor, by a parent thereof,* shall, upon conviction, be punished (1) by death if the verdict of the jury shall so recommend, provided that the sentence of death shall not be imposed by the court if, prior to its imposition, the kidnaped person has been liberated unharmed, or (2) if the death penalty shall not apply nor be imposed the convicted person shall be punished by imprisonment in the penitentiary for such term of years as the court in its discretion shall determine: *Provided,* That the failure to release such person within seven days after he shall have

> been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a presumption that such person has been transported in interstate or foreign commerce, but such presumption shall not be conclusive. (Italics supplied.)

The italicized words were not in the original Act of 1932 but were among the amendments added by the 1934 Act. The original Federal Kidnaping Act of 1932 and the amending Act of 1934 are printed in the Appendix, *infra*, p. 20.

STATEMENT

The facts as set forth in the certificate are as follows:

Gooch was convicted and sentenced to be hanged under an indictment charging that he, with one Nix, kidnaped two officers at Paris, Texas, "for the purpose of preventing his (Gooch's) arrest by the said peace officers in the State of Texas", and transported them in interstate commerce from Paris, Texas, to Pushmataha County, Oklahoma, and at the time of the kidnaping did bodily harm and injury to one of the officers, from which bodily harm the officer was suffering at the time of his liberation by Gooch and Nix in Oklahoma.

The proof supports the charge. It established these facts: Gooch and Nix, while heavily armed, were accosted by the officers at Paris, Texas. To avoid arrest, Gooch and Nix resisted and disarmed the officers, unlawfully seized and kidnaped them and transported them by automobile from Texas

to Oklahoma, and liberated them in the latter State. During the time Gooch and Nix were kidnaping the officers they inflicted serious bodily injury upon one of the officers, from which injury he was suffering at the time of such liberation in the State of Oklahoma.

SUMMARY OF ARGUMENT

The language of the statute requires an affirmative answer to the questions certified. The phrase "held for ransom or reward" was amended two years after the enactment of the statute by the addition of the phrase "or otherwise, except, in the case of a minor, by a parent thereof." The amended language indicates an intention to include cases of kidnaping and detention not only for pecuniary gain but for other benefit or advantage. The word "otherwise" carries the meaning of dissimilarity, and hence precludes any narrow application of the rule of *ejusdem generis*. Numerous courts have so held in construing the words "or otherwise." The specific exception in the case of the kidnaping of a minor child by its parent shows that such cases would be within the scope of the statute were it not for the exception.

The legislative history of the statute confirms its construction as including cases of kidnaping to prevent arrest. When originally introduced in 1932 the bill contained the phrase "held for ransom or reward, or held for any other unlawful purpose." The latter part of this phrase was stricken out be-

cause of reluctance to include cases of kidnaping of a child by its parent. Two years later the statute was broadened to its present form, indicating an intention to revert to the scope of the original bill while making provision for excepting the kind of case which Congress had been unwilling to include. The Committee Reports reinforce this conclusion.

The rule of *ejusdem generis* will not be narrowly applied where such application would defeat the meaning of the statute as shown by its language and its legislative history. But even if the strictest rules of construction are applied, it is submitted that the kidnaping of an arresting officer to prevent arrest is a kidnaping "for ransom or reward or otherwise", the substantial benefit to the kidnaper constituting his reward or recompense akin hereto.

ARGUMENT

I

THE LANGUAGE OF THE STATUTE MANIFESTS A CLEAR LEGISLATIVE INTENT THAT IT SHALL APPLY TO EVERY KIDNAPING WHERE THE VICTIM IS HELD FOR RANSOM OR REWARD OR PECUNIARY PROFIT OR FOR ANY OTHER RECOMPENSE, BENEFIT OR ADVANTAGE, EXCEPT ONLY IN THE CASE OF A MINOR KIDNAPED OR HELD BY THE PARENT THEREOF

Both questions certified raise solely an issue of statutory construction, the second question in more general terms than the first. That issue is whether kidnaping and detention for the purpose of pre-

venting arrest is included within the statute as amended. Specifically the issue involves the scope of the amendatory phrase "or otherwise, except, in the case of a minor, by a parent thereof", which was added, after an interval of two years, to the phrase "held for ransom or reward."

The appellant has contended that the statute must be construed as applying only where the purpose of the kidnaping and detention is to secure some pecuniary gain; he contends for a strict construction of the statute and for an extreme application of the rule of *ejusdem generis*. The Government in the case at bar does not maintain that the amendatory language of the statute must be construed to include every class or kind of kidnaping where interstate commerce is involved. It is unnecessary in the case at bar to urge so broad a construction. The Government maintains that in any event the statute must be construed to apply to kidnaping and detention for the purpose of securing any recompense, benefit or advantage, whether pecuniary or not. No narrower construction, it is submitted, is consonant with the language of the Act as amended, its legislative history and the purposes for which it was enacted.

As amended, the Act specifies what is probably the most common motive actuating the crime of kidnaping, namely, ransom or reward, and adds the words set forth above. The phrase "or otherwise" was aptly chosen to include the various types

of other personal advantage without enumerating them specifically. The phrase "or otherwise," it should be noted, carries a distinctly stronger connotation than such phrases as "or other purpose". The former carries the connotation of additional and dissimilar; the latter, of additional and similar. The word "otherwise" is defined in Webster's International Dictionary as "in a different manner; in another way, or in other ways; contrarily." This meaning has been recognized in numerous decisions which regard the phrase "or otherwise" as precluding any narrow application of the rule of *ejusdem generis*. A collection of such decisions is printed in the Appendix, *infra*, pp. 22–25.

Since the meaning of the amendatory phrase "or otherwise" carries the concept of dissimilarity, its force would be practically lost if it were confined to cases of pecuniary gain. If the preceding phrase, "ransom or reward," suggests the category of pecuniary benefit, the phrase "or otherwise" must be at least broad enough to include other kinds of benefit or advantage.

The construction contended for by the Government is compelled, we submit, by the express inclusion of an exception in the statute; namely, the case of the kidnaping of a minor child by its parent. Manifestly it was the intention of Congress that such cases would be embraced within the language of the Act unless specific exception for them were made. The ordinary motive in such kidnapings is

the desire to secure the custody of the child from the other spouse. In such cases the motive is not pecuniary, but is instead the enjoyment of the custody, society and care of the child. The construction urged by the appellant ignores the significance of this exception.

The effect of a specific exception in a statute has frequently been noted by this Court. As was said in *Brown* v. *Maryland,* 12 Wheat. 419, 438, "the exception of a particular thing from general words, proves that, in the opinion of the law-giver, the thing excepted would be within the general clause, had the exception not been made." See also *Gibbons* v. *Ogden,* 9 Wheat. 1, 191; *Arnold* v. *United States,* 147 U. S. 494, 499; *Hopkins* v. *United States,* 235 Fed. 95, 98 (C. C. A. 8th).

The fact that the statute is penal in character and is, therefore, to be strictly construed does not militate against the construction for which the Government contends. The rule of strict construction is not violated by allowing words to have their full meaning where such construction best harmonizes with the context and gives effect to the intention of the legislature. See *Ash Sheep Co.* v. *United States,* 252 U. S. 159, 170; *United States* v. *Bowman,* 260 U. S. 94, 102; *Johnson* v. *Southern Pacific Co.,* 196 U. S. 1, 17. The applicable principle was succinctly stated by this Court in *United States* v. *Hartwell,* 6 Wall. 385, 395:

> We are not unmindful that penal laws are to be construed strictly. It is said that this

> rule is almost as old as construction itself. But whenever invoked it comes attended with qualifications and other rules no less important. * * * The proper course in all cases is to adopt that sense of the words which best harmonizes with the context, and promotes in the fullest manner the policy and objects of the legislature. The rule of strict construction is not violated by permitting the words of the statute to have their full meaning, or the more extended of two meanings, as the wider popular instead of the more narrow technical one; but the words should be taken in such a sense, bent neither one way nor the other, as will best manifest the legislative intent.

It is as true of penal statutes as of those in derogation of the common law that while they "are to be construed strictly, 'they are also to be construed sensibly, and with a view to the object aimed at by the legislature.' " *Johnson* v. *Southern Pacific Co.*, *supra*, at 17.

II

THE LEGISLATIVE HISTORY OF THE STATUTE CONFIRMS THE FOREGOING CONSTRUCTION

The Act of June 22, 1932, c. 271, Sec. 1, 47 Stat. 326, contained simply the phrase "held for ransom or reward." That Act incorporated the provisions of the Senate bill, S. 1525, 72d Cong., 1st Sess., as reported by the Senate Committee on the Judiciary. See Senate Report 765, 72d Cong., 1st Sess. It is

significant, however, that as originally introduced in the Senate the bill contained the phrase "held for ransom or reward, or held for any other unlawful purpose." *Ibid.* The excision of the latter words was accepted by the Senate without discussion. 75 Cong. Rec., p. 12318.

In the House, on the other hand, the debates throw light upon the scope of the bill as originally introduced and the reasons for its change as finally enacted. The Committee on the Judiciary in the House reported the Senate bill as a substitute for the House bill. 75 Cong. Rec., pp. 13282, 13287. But the original House bill, which was substantially identical with the original Senate bill as introduced, was brought forward as a proposed amendment to the bill reported by the Committee. *Idem,* 13294. This amendment included the phrase "or held for any other unlawful purpose." The debate on this amendment elicited opposition to it on the ground that it would include cases of kidnaping of a child by the parent, which certain members regarded as of a distinctly less heinous character than other classes of unlawful kidnaping. *Idem,* 13296. In addition to such cases, the phrase in question would have included, as stated by the author of the bill, Mr. Cochran, cases of the abduction of a witness and transportation across a State line, in order to prevent his appearance in court. The amendment was finally rejected. *Ibid.* Thereupon, in order to broaden the scope of the reported bill in a some-

what less degree, it was proposed that the language be amended to read " ransom, reward or revenge ". This proposal was objected to on the ground that it introduced impractical difficulties of proof; and opponents of the broader version conceded that the new proposal was on that account more objectionable than the former. It also was rejected. *Idem,* 13298. The bill as passed by the Senate was thereafter adopted by the House. *Idem,* 13304.

The history of the original Act thus discloses an intention on the part of Congress to cope with the common class of kidnapings, a proposal to deal with all interstate kidnapings, and a reluctance to include the case of kidnaping of a child by its parent. The only middle ground suggested was rejected because it introduced difficulties of proof.

The enactment of the original Act was a recognition that kidnaping in latter years had assumed the proportions of a highly organized industry operating without regard to State boundaries. See Hearings before the Committee on the Judiciary, House of Representatives, on H. R. 5657, 72d Cong., 1st Sess.; and for a discussion of the conditions leading up to the enactment of the statute see Fisher and McGuire, *Kidnaping and the So-called Lindbergh Law,* 12 N. Y. U. Law Q. Rev. 646–655. The Report of the Senate Committee, No. 765, 72d Cong., 1st sess., stated the purpose of the legislation to be the following:

> The purpose of this proposed legislation is to assist the States in stamping out the

> growing menace of kidnaping. Kidnapers often seize a person in one State and transport him into another State. The police officers of the first State have no authority to follow into the second State but are compelled to rely wholly on the efforts of the police officers of the second State.

After the Act had been in effect for two years the words in question in the case at bar were added. Act of May 18, 1934, c. 301, 48 Stat. 781. The scope of the amended language is indicated by the debates on the original Act. It is obvious that after an interval of two years Congress reverted to the scope of the bills as originally introduced in 1932, with provision, however, for the type of case which impelled a rejection of the language of those bills in the first instance. That is, Congress determined that the law should no longer be limited to cases of kidnaping for ransom or reward. The words adopted to accomplish this purpose were doubtless chosen with a view to economy of language and mechanical ease of amendment.

The Committee Reports disclose the scope and purpose of the amendatory language adopted in 1934. The Report of the House Committee on the Judiciary stated (H. Rep. 1457, 73d Cong., 2d Sess.):

> First, it is proposed to add the words "or otherwise, except, in the case of a minor, by a parent thereof". This will extend Federal jurisdiction under the act to persons who

> have been kidnaped and held, not only for reward, but for any other reason, except that a kidnaping by a parent of his child is specifically exempted.

The Report of the Senate Committee on the Judiciary (S. Rep. 534, 73d Cong., 2d Sess.) stated:

> The object of the addition of the word "otherwise" is to extend the jurisdiction of this act to persons who have been kidnaped and held, not only for reward, but for any other reason.

The conclusion is inescapable from the legislative history that the statute as amended includes every kidnaping involving interstate transportation where the victim is held for any recompense, benefit or advantage, except in the case of the kidnaping of a minor child by its parent. The fact that the language in question was deliberately added by amendment after the Act had been in operation repels any suggestion that the amendatory language must be construed in the narrow way urged by the appellant. A similarly narrow construction was rejected by this Court in *United States* v. *Limehouse,* 285 U. S. 424, 426, on the ground that such a construction "emptied the amendment of all meaning". See also *Louisville & Nashville Railroad* v. *Mottley,* 219 U. S. 467, 475; *Johnson* v. *United States,* 225 U. S. 405, 415.

The history of the amendatory statute compels the conclusion that a substantially broader category was meant to be embraced than had been in-

cluded in the original Act; and the specification of the exception which had prevented the earlier adoption of the broad language reenforces this conclusion. In *United States* v. *Bitty,* 208 U. S. 393, 401, this Court said:

> Now the addition in the last statute of the words, "or for any other immoral purpose," after the word "prostitution," must have been made for some practical object. Those added words show beyond question that Congress had in view the protection of society against another class of alien women other than those who might be brought here merely for purposes of "prostitution." In forbidding the importation of alien women "for any other immoral purpose," Congress evidently thought that there were purposes in connection with the importations of alien women which, as in the case of importations for prostitution, were to be deemed immoral. * * *

Where the intention of the legislature is thus apparent from the Act as a whole and its legislative history, the rule of *ejusdem generis* will not be applied to reach a contrary result. This Court has pointed out that the rule of *ejusdem generis* is one of construction to aid in ascertaining the intent of the law makers, not to defeat or subvert it. *United States* v. *Mescall,* 215 U. S. 26, 31; *Danciger* v. *Cooley,* 248 U. S. 319, 326; *Mason* v. *United States,* 260 U. S. 545, 554; *Mid-Northern Co.* v. *Montana,* 268 U. S. 45, 49; *Texas* v. *United States,* 292 U. S.

522, 534. See also *Willis* v. *Mabon,* 48 Minn. 140, 156, *per* Mitchell, J. These principles will be applied in criminal as well as civil cases. *Cf. People* v. *Miles,* 143 N. Y. 383, and cases cited in Appendix B, *infra,* pp. 22–25, in which the courts have declined to apply the rule of *ejusdem generis* in construing the word "otherwise."

It is unnecessary in the case at bar to give dominant effect to either the language of the statute alone or to the legislative history alone. Compare *Caminetti* v. *United States,* 242 U. S. 470, with *Church of the Holy Trinity* v. *United States,* 143 U. S. 457. In the case at bar the language of the statute and the legislative history alike point to the conclusion that the amendatory language cannot be limited to cases of kidnaping for pecuniary gain but must include cases of kidnaping for other advantages such as the prevention of arrest.

III

EVEN IF THE STRICTEST RULES OF CONSTRUCTION BE APPLIED, IT IS SUBMITTED THAT THE KIDNAPING OF AN ARRESTING OFFICER TO PREVENT ARREST IS A KIDNAPING "FOR RANSOM OR REWARD OR OTHERWISE", THE SUBSTANTIAL BENEFIT TO THE KIDNAPER CONSTITUTING HIS REWARD OR RECOMPENSE AKIN THERETO

In their brief in the Circuit Court of Appeals, counsel for the appellant argued that the words "or otherwise" added to "ransom or reward" were intended to embrace those kidnapings where the motive was "extortion, blackmail, robbery or

sale"—in other words, pecuniary gain. But it is not clear why "reward" should be thus restricted in meaning. Reward is defined by Webster as "that which is given in return for good or evil done or received; esp., that which is offered or given for some service or attainment, as a prize for excellence in studies, a sum of money for the return of something lost or for the capture of a criminal, etc.; recompense; requital." What of the cases where the victim is kidnaped in order to prevent him from prosecuting his abductor, or testifying against him in court, or in order to compel him to any course of conduct detrimental to him and beneficial to his kidnaper? Is the cash reward in a kidnaping for blackmail or robbery a recompense or benefit of different legal significance from any other benefit or advantage to secure which the kidnaping may be perpetrated?

In *United States* v. *Bitty,* 208 U. S. 393, the defendant was charged under a statute which prohibited the importation into the United States of any woman or girl for the purpose of prostitution or for any other immoral purpose. The defendant brought the woman in question into the United States for the purpose of concubinage and not prostitution. This Court held that the phrase "or for any other immoral purpose", which was added to the original statute by subsequent Act, enlarged the class of prostitution to make it include an immoral purpose such as concubinage. The Court said (p. 402):

> It may be admitted that in accordance with the familiar rule of *ejusdem generis,* the immoral purpose referred to by the words "any other immoral purpose," must be one of the same general class or kind as the particular purpose of "prostitution" specified in the same clause of the statute. 2 Lewis' Sunderland Stat. Const., Sec. 423, and authorities cited. But that rule cannot avail the accused in this case; for, the immoral purpose charged in the indictment is of the same general class or kind as the one that controls in the importation of an alien woman for the purpose strictly of prostitution. The prostitute may, in the popular sense, be more degraded in character than the concubine, but the latter none the less must be held to lead an immoral life. * * * Chief Justice Marshall, speaking for the court, said that "though penal laws are to be construed strictly, they are not to be construed so strictly as to defeat the obvious intention of the legislature. The maxim is not to be so applied as to narrow the words of the statute to the exclusion of cases which those words, in their ordinary acceptation, or in that sense in which the legislature has obviously used them, would comprehend. * * *

In *Caminetti* v. *United States,* 242 U. S. 470, the defendant was convicted under the White Slave Act for transporting a woman in interstate commerce for the purpose of becoming his concubine or mistress. Defendant contended that such act did not violate the statute which prohibits the transporta-

tion of a woman or girl in interstate commerce for the purpose of prostitution or debauchery or for any other immoral purpose. This Court held that the charge against the defendant was within the purview of the statute.

From these holdings of this Court, it appears that even if the phrase "or otherwise" is restricted to mean "or like purposes", it nevertheless enlarges the originall kidnaping Act and is broad enough to include kidnaping and holding for the purpose of securing the benefit of preventing arrest.

Nor is the case of *United States* v. *Sheldon,* 2 Wheat. 118, relied upon by appellant, authority for such a construction of the word "otherwise" as would justify a negative answer to the questions certified. That case held that the driving of cattle on foot was not within the statutory words "shall transport, or attempt to transport, overland or otherwise, in any wagon, cart, sleigh, boat or otherwise." The decision in that case turned on the definition of "transport", and not on the definition of "otherwise". Whatever may be the soundness of that decision, it is no precedent for a construction of the word "otherwise" that would so narrow its sense as to deprive the statute of the meaning intended by Congress, as shown by the language of the Act as a whole and its legislative history.

CONCLUSION

We submit that the language of the statute, its legislative history, and the applicable rules of

statutory construction require that the Federal Kidnaping Act be construed to include all cases of kidnaping where the victims are held not only for ransom or reward but for other recompense, benefit or advantage whether pecuniary or otherwise, except only in the case of a minor by the parent thereof; and that both questions should be answered in the affirmative.

Respectfully submitted.

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JANUARY, 1936.

APPENDIX A

The Federal Kidnaping Act of June 22, 1932, c. 271, 47 Stat. 326, provides as follows:

> That whoever shall knowingly transport or cause to be transported, or aid or abet in transporting, in interstate or foreign commerce, any person who shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away by any means whatsoever and held for ransom or reward shall, upon conviction, be punished by imprisonment in the penitentiary for such term of years as the court, in its discretion, shall determine: *Provided,* That the term "interstate or foreign commerce" shall include transportation from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, or to a foreign country; or from a foreign country to any State, Territory, or the District of Columbia: *Provided further,* That if two or more persons enter into an agreement, confederation, or conspiracy to violate the provisions of the foregoing Act and do any overt act toward carrying out such unlawful agreement, confederation, or conspiracy such person or persons shall be punished in like manner as hereinbefore provided by this Act.

This Act was amended by the Act of May 18, 1934, c. 301, 48 Stat. 781, as follows:

> That the Act of June 22, 1932 (U. S. C., ch. 271, title 18, sec. 408a), be, and the same is hereby, amended to read as follows:
>
> Whoever shall knowingly transport or cause to be transported, or aid or abet in transporting, in interstate or foreign commerce, any person who shall have been un-

lawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away by any means whatsoever and held for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, shall, upon conviction, be punished (1) by death if the verdict of the jury shall so recommend, provided that the sentence of death shall not be imposed by the court if, prior to its imposition, the kidnaped person has been liberated unharmed, or (2) if the death penalty shall not apply nor be imposed the convicted person shall be punished by imprisonment in the penitentiary for such term of years as the court in its discretion shall determine: *Provided,* That the failure to release such person within seven days after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a presumption that such person has been transported in interstate or foreign commerce, but such presumption shall not be conclusive.

SEC. 2. The term "interstate or foreign commerce", as used herein, shall include transportation from one State, Territory, or the District of Columbia to another State, Territory, or the District of Columbia, or to a foreign country, or from a foreign country to any State, Territory, or the District of Columbia.

SEC. 3. If two or more persons enter into an agreement, confederation, or conspiracy to violate the provisions of the foregoing Act and do any overt act toward carrying out such unlawful agreement, confederation, or conspiracy, such person or persons shall be punished in like manner as hereinbefore provided by this Act.

(18 U. S. C., Secs. 408a, 408b, 408c.)

APPENDIX B

Many courts recognizing the rule of *ejusdem generis* have nevertheless construed "otherwise" as meaning "contrarily", "differently", or "in another or different manner". Some of these decisions are listed below.

United States Supreme Court:

Burlington & M. R. R. Co. v. *Fremont,* 9 Wall. 89, 94.
Collector v. *Hubbard,* 12 Wall. 1, 18.
State of Wisconsin v. *Lane,* 245 U. S. 427, 434.

Federal:

United States v. *Bettilini,* 24 Fed. Cas. No. 14587, pp. 1135, 1136 (C. C. N. D. Fla.).
Franklin Sugar Refining Co. v. *United States,* 137 Fed. 655, 658 (C. C. E. D. Pa.).
Cramer v. *United States,* 276 Fed. 78, 79–81 (C. C. A. 9th).

Arkansas:

Matthews v. *Kimball,* 70 Ark. 451, 462.

California:

Daniels v. *Gualala Mill Co.,* 77 Cal. 300, 303.
Contra Costa Water Co. v. *Breed,* 139 Cal. 432, 441.

Connecticut:

Sheehy v. *Barry,* 87 Conn. 656, 662.

Georgia:

Carter v. *Johnson,* 156 Ga. 207, 212.

Illinois:

Carpenter v. *Mitchell,* 54 Ill. 126, 131.
Thompson v. *City of Highland Park,* 187 Ill. 265, 268.

Iowa:

McClanahan v. *McClanahan,* 129 Ia. 411.

Kansas:

American State Bank v. *Wilson,* 110 Kan. 520, 529.

Louisiana:

Sibley v. *Pierson,* 125 La. 478, 511.

Michigan:

Higler v. *People,* 44 Mich. 299, 300.
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